

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-54598; File No. SR-NASDAQ-2006-042)

October 13, 2006

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Modify Nasdaq Rule 4760 Relating to the Operation of the Nasdaq Crossing Network

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 4, 2006, The NASDAQ Stock Market LLC (“Nasdaq”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. Nasdaq filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq is proposing to modify Nasdaq Rule 4760 relating to the operation of the Nasdaq Crossing Network. Nasdaq plans to implement the proposed rule change on November 6, 2006. The text of the proposed rule change is available on Nasdaq’s Web site (<http://www.nasdaq.com>), at Nasdaq’s principal office, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On July 5, 2006, the Commission approved Nasdaq Rule 4760 which governs the operation of the Nasdaq Crossing Network.⁵ The Nasdaq Crossing Network will provide a new execution option to market participants trading in Nasdaq and other exchange-listed securities that will facilitate the execution of trades quickly and anonymously. Nasdaq expects to launch the operation of the Crossing Network on or about November 6, 2006.⁶

In anticipation of the launch, Nasdaq has proposed some minor modifications to Nasdaq Rule 4760. Due to the intervening approval of Nasdaq's Single Book integration rule proposal⁷

⁵ See Securities Exchange Act Release No. 54248 (July 31, 2006), 71 FR 44738 (August 7, 2006) (SR-NASDAQ-2006-019). Prior to the effective date of Nasdaq's operation as an exchange for Nasdaq-listed securities, the rule governing the Nasdaq Crossing Network had been approved as an NASD rule (NASD Rule 4716). Securities Exchange Act Release No. 54101 (July 5, 2006), 71 FR 39382 (July 12, 2006) (SR-NASD-2005-140).

⁶ Telephone conference between Jan Woo, Attorney, Division of Market Regulation, Commission, and Jeffrey Davis, Senior Associate General Counsel, Nasdaq, on October 4, 2006 (correcting a typographical error in the filing which stated that Nasdaq plans to launch the operation of the Crossing Network on or about October 30, 2006).

⁷ See Securities Exchange Act Release No. 54155 (July 14, 2006), 71 FR 41291 (July 20, 2006) (SR-NASDAQ-2006-001).

which has caused a conflict regarding the numbering of certain Nasdaq rules, Nasdaq proposes to renumber the provisions governing the operation of the Nasdaq Crossing Network as Nasdaq Rule 4770.

In addition, in response to input from our members and other market participants, Nasdaq proposes to modify the times of the Reference Price Crosses during the regular hours session. Under the proposed rule change, the regular hours session crosses would commence at 10:45 a.m., 12:45 p.m., and 2:45 p.m. Eastern Time.

Nasdaq also proposes to add a clarification to Nasdaq Rule 4770 about how Reference Price Cross orders will be allocated. The existing rule provides that Reference Price Cross orders will be allocated on a pro-rata basis, so that shares will be allocated pro-rata in round lots to eligible orders based on the original size of the order. If additional shares remain after the initial pro-rata allocation, those shares will continue to be allocated pro-rata to eligible orders until a number of round lots remain that is less than the number of eligible orders. The proposed rule change clarifies that any remaining shares will be allocated to the order which has designated the smallest minimum acceptable execution quantity. If more than one such order exists, any remaining shares will be allocated to the oldest eligible order.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁸ in general and with Section 6(b)(5) of the Act,⁹ in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and

⁸ 15 U.S.C. 78f.

⁹ 15 U.S.C. 78f(b)(5).

facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Nasdaq believes that the proposed rule change is consistent with these requirements in that the changes are designed to address market participant input and issues raised in testing relating to Nasdaq's proposed reference price crossing product, which will provide the Nasdaq additional means for facilitating transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (1) significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) by its terms become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)¹⁰ of the Act and Rule 19b-4(f)(6) thereunder.¹¹

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f)(6).

necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2006-042 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASDAQ-2006-042. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be

available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of Nasdaq. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to the File Number SR-NASDAQ-2006-042 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Nancy M. Morris
Secretary

¹² 17 CFR 200.30-3(a)(12).